such ownership-change amendments based on a finding of "changing service demands and economic conditions". Kansas City Southern Industries, 3 FCC Rcd at 2842, citing Amendment of Part 1 and 21 of the Commission's Rules and Regulations Applicable to the Domestic Public Radio Services (other than Maritime Mobile), 38 RR 2d 363, 373 (1976). This narrow exception should not be disturbed.

In its admirable efforts to deter speculation and discourage trafficking in applications, the Commission's proposal to eliminate all but pro forma ownership changes also would eliminate legitimate and necessary ownership changes. The precedents discussed above are narrow enough in scope to allow their continuance without impeding the Commission's other goals. Accordingly, the Commission should retain the current rules and continue to allow ownership change amendments where the change in control "is for legitimate business purposes other than the acquisition of applications."

VI. ADDITIONAL RULE CHANGE PROPOSALS

A. Expanded Protected Service Contour

The Consortium advocates expansion of the MDS protected service area in the manner and for the reasons specified by The Wireless Cable Association, Inc. ("WCA") in its pending Petition for Partial Reconsideration filed December 13, 1991 ("WCA Recon Petition"). The WCA has made compelling arguments vital to the future of the wireless cable industry, and has proposed a simple but flexible formula to quantify a particular market's protected

service area.[21]

As WCA points out, the fifteen-mile radius protected service area codified in Section 21.902(d) has become technically and practically obsolete. First, technological advancements have superseded the predicate upon which Section 21.902(d) rests because the 23 dB faded signal-to-noise ratio required for subscribers to receive an adequate picture now is available beyond fifteen miles for most MDS stations. Second, according to WCA, more than half of current wireless cable subscribers are located beyond the fifteen-mile limit. Clearly, the fifteen-mile protected service area contour is an artifact that has no current realistic basis.

As an alternative to this rule -- one that more closely reflects actual service area boundaries -- the Consortium endorses the WCA's position that the limits of a station's protected service area be calculated according to its EIRP along each radial. The greater the EIRP, the greater will be the distance to the boundary of the protected service area. This will give each wireless cable system its own fixed-mileage protected service area boundary within which to provide service, either with its primary signal, booster stations or a combination of both.[22] The Consortium proposes that

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[21] The Consortium incorporates Part I of the WCA Recon Petition by reference, such that a detailed discussion is not necessary.

[22] For existing stations within the expanded protected service area of another station, the proposal advanced herein would not apply. That is, the existing protected service areas would be grandfathered under current rules.

the following table be incorporated into Section 21.902:

EIRP Along Radial (dBW)	Distance from Transmit Site to Boundary (Miles)	EIRP Along Radial (dBW)	Distance from Transmit Site to Boundary (Miles)
0	7.2	17	15.5
1	7.5	18	16.5
2	7.9	19	17.0
3	8.3	20	18.0
4	8.7	21	19.0
5	9.1	22	20.0
6	9.5	23	21.0
7	10.0	24	22.0
8	10.5	25	23.0
9	11.0	26	24.0
10	11.5	27	25.5
11	12.0	28	26.5
12	12.5	29	27.0
13	13.0	30	28.5
14	13.5	31	29.5
15	14.5	32	31.0
16	15.0	33	32.5

Adoption of this table would ensure that protected service areas of MDS stations more closely reflect actual service areas which will, in turn, promote spectrum efficiency and system flexibility.[23]

In addition, adoption of an EIRP-based protected service area will discourage speculative filings in markets located near other developing systems. These filings are designed to capitalize on the subscriber base built up by the operator and raise the specter of greenmail. Rather than promote system development, such proposals threaten the viability of existing systems which have

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[23] This would require applicants to submit a map showing the EIRP along each radial for purposes of establishing the boundaries of the protected service area. The map would not, however, be submitted for demonstrating interference protection, but rather would serve to provide notice of the proposed protected service area.

come to provide reliable service outside their protected service areas. As the Commission has come to recognize in the FM radio service, more is not necessarily better.

B. Authorization of Signal Boosters Within the Protected Service Area.

The Consortium also urges that the Commission adopt a simplified procedure for the authorization of low-power signal boosters within the wireless cable system's protected service area.[24] Under current rules, signal booster stations within a protected service area are licensed as modifications to existing licenses. Although a low power booster station can be constructed prior to filing with the FCC, the applicant must file the application (FCC Form 494 or FCC Form 330) within 48 hours of installation. Once the booster station has been authorized by the FCC, co-channel and adjacent channel ITFS, MDS and MMDS licensees with transmitters within five miles of the primary transmitter of the signal booster have sixty days after grant to file an objection to the signal booster.

In addition to the required showings that the signal booster does not exceed the protected service area and that the appropriate licensees have consented to the signal booster, the application must also include the technical specifications of the signal booster, and certifications that no environmental assessment is

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[24] In the NPRM at n.20, the Commission proposes to delete the requirement that signal boosters be separately licensed. Its initiative, however, is in the context of the proposal to use a distance separation formula. As discussed herein, the Consortium advocates a simplified signal booster registration scheme.

required and that no registered ITFS E- or F-channel receive sites (constructed prior to May 26, 1983) are located within a one-mile radius of the signal booster transmit site (or a statement from the ITFS licensee consenting to the signal booster). The applicant must show that the power flux density at the edge of the MDS station's protected service area does not exceed -75.6 dBW/m^2. A copy of the application must be served on all licensees with protected service areas or receive sites within a five-mile radius of the signal booster transmit site. The antenna structure of the signal booster may not increase the height of an existing structure by more than twenty feet.[25]

Of these elaborate procedures, the only relevant provision is the requirement that the signal booster does not exceed the boundaries of the parent station's protected service area. This requirement can be met much more easily upon the filing of a simple certification from the applicant stating that the contour of the booster station does not exceed the boundaries of the protected service area of the station's protected service area, with the certification to be filed within five days of the booster station

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[25] The Commission's rules draw a distinction between applicants eligible to apply for signal booster authorizations. Pursuant to Section 21.913(a), wireless cable operators are eligible to apply for 18 dBW booster authorizations, but pursuant to Section 21.913(g), only licensees are eligible to apply for -9 dBW booster stations. The theory behind this anomaly is that low-power boosters may commence operation prior to filing the application described herein. This is a distinction without a difference, made without any justification. Wireless cable operators should be eligible to operate both classes of booster stations pursuant to the proposed simplified procedures.

becoming operational.

This vastly simplified procedure would amount to a tremendous economic savings for wireless cable operators. It is estimated that the engineering and legal fees associated with preparing booster applications for all licensees in a given system would approach $10,000. This is an extraordinary sum, especially since an off-the-shelf signal booster can be purchased for less than $1,000. Eliminating onerous rules that serve no purpose would reduce this expense.

In addition, FCC staff would no longer be required to process complicated booster applications. Staff thus will have more time available to process applications for new and modified stations, where processing needs are greatest.

Simplification of the current filing requirements would also encourage the installation of signal boosters. The obvious effect would be the provision of wireless cable service to subscribers otherwise unable to receive the signals which, in turn, would facilitate competition between wireless cable, cable and other video distribution technologies.

C. Authorization of Signal Boosters Outside the Protected Service Area

The same procedures also should be adopted for authorization of low-power booster stations in areas adjacent to the primary station's protected service area. Such authorizations would be granted on a secondary basis and subject to displacement upon the authorization of a full-power station or upon a showing that operation of the booster station causes actual interference to a

full-power station. Similar rules are used to license FM and TV translator and booster stations in order to permit expanded area coverage to areas underserved by full-power stations. See Section 74.1201 et seq.; Section 74.701 et seq.

Authorization of low-power booster stations beyond the boundaries of the protected service area would promote spectrum efficiency and enable wireless cable service to be provided in unserved areas, without causing or increasing harmful interference. First, the addition of booster stations will permit greater and more efficient use of the wireless cable spectrum. Signals transmitted from the tower could be repeated to cover areas that would not otherwise receive full-power wireless cable service.

Second, installation of low-power boosters beyond the contour will expand wireless cable service to small, rural areas where it is not technically or economically feasible to provide service on a full-power basis. Some rural areas lie between markets currently served by wireless cable systems, and it would not be possible to design a full-power system to serve such an area. Even if it were technically feasible, the small subscriber base does not justify construction of a full-power system. Many rural communities will derive the additional important benefit of ITFS service to provide enhanced educational and instructional programming emanating from the booster service.

Third, low-power booster stations would enable wireless cable service to be provided on an interim, secondary basis pending disposition of backlogged applications and construction of new

stations. Once systems in these markets commenced operation, the booster station would be required to cease operating and the booster station operator would presumably transfer its subscribers to the new system.

These procedures will expand the scope of wireless cable service in a spectrum-efficient and cost-effective manner, without additional administrative burdens and without causing interference. Smaller communities otherwise unable to receive wireless cable service would obtain the benefits of entertainment and educational programming. The Commission's track record with FM and TV translator and booster stations, and the adoption of similar safeguards here, will ensure the provision of a significant public benefit.

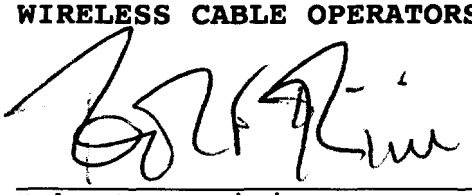
VII. CONCLUSION

In its well-intentioned efforts to expedite processing of wireless cable applications and promote the wireless cable industry as an effective and viable competitor in the video distribution marketplace, the Commission has embarked on a path that could cripple existing wireless cable operations and forever bar the initiation of new service in currently-unserved communities. In particular, adoption of a strict separation standard as a substitute to flexible non-interference showings would have a far-reaching, anti-competitive backlash, without a proportionate benefit. Moreover, such a standard would be unnecessary, as less restrictive fine-tuning to current application procedures and

institution of a market-by-market processing scheme will have the synergistic benefit of both expediting processing and facilitating competition. The Commission also should adopt new rules that premise a station's protected service area on actual coverage, and should simplify procedures for authorization of signal boosters both within and outside a station's protected service area.

Respectfully submitted,

THE CONSORTIUM OF CONCERNED WIRELESS CABLE OPERATORS

By: 
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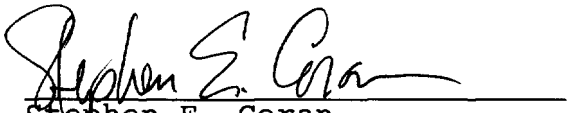
By: 
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DATED: June 29, 1992